2015 discharge: European Agency for the Management of Operational Cooperation at the External Borders (Frontex)

2016/2179(DEC) - 13/09/2016 - Court of Auditors: opinion, report

PURPOSE: presentation of the EU Court of Auditors' report on the annual accounts of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States (Frontex) for the financial year 2015, together with the Agency's replies.

CONTENT: in accordance with the tasks conferred on the Court of Auditors by the Treaty on the Functioning of the European Union, the Court presents to the European Parliament and to the Council, in the context of the discharge procedure, a Statement of Assurance as to the reliability of the annual accounts of each institution, body or agency of the EU, and the legality and regularity of the transactions underlying them, on the basis of an independent external audit.

This audit focused on the annual accounts of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States (Frontex). The Agency's task is to coordinate the Member States' activities in the field of the management of external borders (support for operational cooperation, technical and operational assistance, and risk analysis).

Statement of Assurance: pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union (TFEU), the Court has audited:

- the annual accounts of the Agency, which comprise the financial statements and the reports on the implementation of the budget for the financial year ended 31 December 2015;
- the legality and regularity of the transactions underlying those accounts.

Opinion on the reliability of the accounts: in the Court's opinion, the Agency's annual accounts present fairly, in all material respects, its financial position as at 31 December 2015 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer. However, it gave a qualified opinion on the reliability of the accounts. **The Agency underestimated the cost incurred in 2015, but not yet invoiced, for prefinanced services related to maritime surveillance by EUR 1 723 336**. This underestimation affected the accrued charges and resulted in a material misstatement in the Agency's balance sheet and statement of financial performance.

Opinion on the legality and regularity of the transactions underlying the accounts: the Court considers that the transactions underlying the annual accounts for the year ended 31 December 2015 are legal and regular in all material respects.

The report made a series of observations on the budgetary and financial management of the Agency, accompanied by the latter's response. The main observations may be summarised as follows:

The Court's observations:

- **legality and regularity of the transactions**: the Court stated that the *ex post* audit to Iceland carried out by the Agency in October 2015 detected irregular payments totalling EUR 1.4 million related to the depreciation of a vessel participating in seven joint operations from 2011 to 2015. The

Icelandic coastguard had claimed reimbursement of depreciation for that vessel even though it had exceeded the useful life provided for in the Agency's guidelines. Whilst the Agency has the right to recover irregular payments made in the last 5 years, it announced the recovery of only the payments made since January 2015, amounting to EUR 600 000. The Court recalled that the Commission, under ISF Borders and Visa, reimburses Member States' purchases of means, such as vehicles or vessels as well as running costs such as fuel consumption or maintenance. The Agency also reimburses such costs to participants in joint operations. There is therefore an unaddressed risk of double funding;

- **budgetary management**: the Court noted that the level of carry-overs for committed appropriations was high for administrative and operational expenditure due to IT contracts extending beyond the year-end.
- **costs declared**: the Court recalled that States participating in border operations declare the costs incurred on the basis of cost claim sheets which comprise 'fixed expenses' (depreciation and maintenance), 'variable expenses' (mostly fuel) and 'mission expenses' (mostly allowances and other crew expenses). The costs declared are based on **real values and follow national standards** leading to divergent approaches among participating states which creates a particularly burdensome system for all parties involved. The Court in its Special Report 12/2016 recommended that agencies should use simplified cost options whenever appropriate to avoid such inefficiencies.

The Agency's replies:

- **legality and regularity of the transactions**: the Agency stated that it will further improve its procedure for estimating the costs to be accrued. The implementing rules to the Frontex Financial Regulation provide that the Authorising Officer may waive recovery of an established amount where recovery is inconsistent with the principle of proportionality. The Agency will continue its efforts to reduce the amounts of carry-overs in view of honouring better the annuality principle. The Authorising Officer announced the recovery of EUR 600 000. He also announced not to reimburse EUR 200 000due in 2016;
- **budgetary management**: Frontex acknowledged the explanations provided by the Court on the amounts of carry-overs;
- **costs declared**: the Agency agreed with the Court that reimbursing costs based on real values is cumbersome and the introduction of unit costs is a viable option, which the Agency will pursue. Furthermore, the proposal for the Border and Coast Guard Agency may likely remove the obligation to use grants, which will pave the way for using new funding mechanisms for the Agency beyond grants.

Lastly, the Court of Auditors' report also contained a **summary of the Agency's key figures in 2015**:

- **Budget**: EUR 145.3 million (in commitment appropriations).
- **Staff**: 309 including officials, temporary and contract staff and seconded national experts.